IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

AND
THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 24768 of 2004

Between:

M/s.Kitchen Applicances India Ltd rep by its

Branch in-Charge, Mr.C.Kotilingam

..... PETITIONER

AND

1. The Commercial Tax Officer Begumpet Circle, Secunderabad.

2. The Appellate Deputy Commissioner (CT),

Punjagutta Division, Hyderabad.

3. The Additional Commissioner (CT) Legal,

Andhra Pradesh, Nampally, Hyderabad.

4. The Manager Corporation Bank, CAPS Branch 409-412,

Dalamai Towers, Narimanpoint, Mumbai-400 021.

5. The Branch Manager State Bank of India,

Hyderabad Public School Branch,

6. The Branch Manager, Corporation Bank, CAPS Branch,

Public Gardens, Hyderabad 500 001.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction to quash the impugned notices issued by the 1st Respondent under Section 17 of the APGST Act for recovery of the balance during pendency of appeals before the 2nd Respondent and stay applications before the 3rd Respondent, as illegal, arbitrary and unjustified and consequently restrain the 1st Respondent from taking any coercive steps for recovery of disputed taxes of Rs,63,86,687/- Rs67,15,909/- Rs.66,62,656/- & Rs 1,62,90,600/- for the assessment years 1997-98 to 2000-01 respectively and pass such other order or orders.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court made the following :

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O R D E R

(Per Sri Justice M.H.S.Ansari)

Heard learned counsel for respective parties.

Petitioner has questioned the demand notices under Section 17 of APGST Act for the assessment years 1997-1998, 1998-1999, 1999-2000 and 2000-2001.

The said garnishee notices have been issued to the bankers of the petitioner directing the said bank not to make any payments to the petitioner unless the tax dues are discharged. The said garnishee notices have been issued as the stay application filed by the petitioner before the Appellate Deputy Commissioner (CT) were dismissed. The stay of collection of tax was rejected by the Additional Commissioner (CT) pending disposal of the appeals before the 2nd respondent-Appellate Deputy Commissioner (CT). A copy of the order of rejection dated 27.12.2004 has been furnished to us by the learned counsel for the petitioner. Let the same be kept in the record.

Keeping in view that a statutory appeal has been preferred by the petitioner before the 2nd respondent in respect of the aforesaid assessment years in question viz., 1997-1998 to 2000-2001, we are of the view that interest of justice would be served, if the petitioner is directed to deposit 50% of the disputed tax, giving credit to the amounts already paid towards tax, for each of the assessment years in respect of appeals preferred by the petitioner, within four weeks from the date hereof. If the petitioner complies with the

directions as above and deposits 50% of the disputed tax within the time stipulated above, the appellate authority-Respondent No.2 herein shall dispose of the respective appeals pending before it, in accordance with law, without insisting upon the payment of balance of disputed tax.

Consequently, if the deposit is made within the time stipulated above, the garnishee notices impugned in the instant writ petition shall stand set aside.

Writ Petition accordingly stands disposed of with directions as above. No costs.

JUSTICE M.H.S.ANSARI

JUSTICE ELIPE DHARMA RAO

30th December, 2004

PGS

To

1. The Commercial Tax Officer Begumpet Circle, Secunderabad.

2. The Appellate Deputy Commissioner (CT),

Punjagutta Division, Hyderabad.

3. The Additional Commissioner (CT) Legal,

Andhra Pradesh,Nampally,Hyderabad.

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Public Gardens, Hyderabad 500 001.

7. 2 CCs to Spl. Govt. Pleader for Taxes.

THE HON'BLE MR JUSTICE M.H.S. ANSARI

AND
THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO. 24768 of 2004

(Per Sri Justice M.H.S.Ansari)

30th December, 2004